

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
COMMISSION STAFF**

**FROM: KRISTINE SASSER
DEPUTY ATTORNEY GENERAL**

DATE: FEBRUARY 20, 2013

**SUBJECT: IDAHO POWER'S APPLICATION FOR A DETERMINATION
REGARDING THE FESA BETWEEN IDAHO POWER COMPANY AND
J.R. SIMPLOT COMPANY, CASE NO. IPC-E-13-02**

On February 20, 2013, Idaho Power Company filed an Application with the Commission requesting a determination regarding the Firm Energy Sales Agreement (FESA, Agreement) between Idaho Power and J.R. Simplot. The Application states that Simplot would sell and Idaho Power would purchase electric energy generated by Simplot's Pocatello cogeneration plant (Facility) located near Pocatello, Idaho.

Idaho Power states that this request is for a replacement Agreement applicable to an existing project. The Company is requesting interim approval of its Agreement while the Application is reviewed because the current agreement expires on March 1, 2013.

THE AGREEMENT

The Application states that Simplot has elected to contract with Idaho Power for a two-year term using non-levelized published avoided cost rates as currently established by the Commission for energy deliveries of less than 10 aMW. As a cogeneration plant, the Facility is classified within the "other" category of the published rates. The present Agreement has been negotiated to replace the existing agreement which expires on March 1, 2013. The avoided cost rates contained in this Agreement are lower than the avoided cost rates contained in the expiring agreement. Because the Facility is an existing QF whose previous contract with Idaho Power is expiring, this Agreement contains capacity payments for the entire term of the Agreement.

The nameplate rating of this Facility is 15.9 MW. Having chosen a published rate contract, Simplot will be required to provide data on the Facility that Idaho Power will use to

confirm that under normal and/or average conditions, the Facility will not exceed 10 aMW on a monthly basis. Under the terms of the Agreement, Idaho Power will accept the excess energy (Inadvertent Energy), but will not purchase or pay for the Inadvertent Energy. As an existing QF that has been delivering energy to Idaho Power pursuant to an existing agreement, the replacement Agreement specifies that the Scheduled Operation Date for this Facility shall be no later than 120 days after a Commission final non-appealable Order has been issued approving the replacement Agreement.

Various requirements have been placed upon Simplot in order for Idaho Power to accept energy deliveries from this Facility. Idaho Power states that it will continue to monitor compliance with these requirements through the full term of the Agreement. The Company maintains that the Agreement, as signed and submitted, contains non-levelized published avoided cost rates in conformity with applicable Commission Orders. Idaho Power further states that all applicable interconnection charges and monthly operation and maintenance charges under Schedule 72 will be assessed to Simplot.

The Application states that the Agreement was executed in compliance with Commission Orders directing the implementation of PURPA for the State of Idaho. PURPA QF generation must be designated as a network resource (DNR) to serve Idaho Power's retail load on its system. In order for this Facility to maintain its current DNR status there must be an Agreement associated with its transmission service request (TSR) to maintain compliance with Idaho Power's non-discriminatory administration of its Open Access Transmission Tariff (OATT) and compliance with FERC requirements. A lapse in time between an expiring and replacement firm energy sales agreement places the Facility's status as a DNR and its associated TSR in jeopardy. In order to provide for the continued and uninterrupted operation of the cogeneration Facility and its associated plant (to maintain DNR status), the parties request interim approval of the Agreement while the Commission completes its review.

By its own terms, the Agreement will not become finally effective until the Commission has approved all of the Agreement's terms and conditions and declares that all payments made by Idaho Power to Simplot for purchases of energy will be allowed as prudently incurred expenses for ratemaking purposes. Agreement ¶ 21.

Idaho Power requests that its Application be processed by Modified Procedure pursuant to Commission Rules of Procedure 201-204. IDAPA 31.01.01.201-.204.

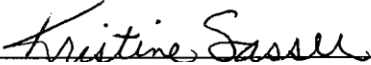
STAFF RECOMMENDATION

Staff has completed an initial review of Idaho Power's Application and the Agreement between Idaho Power and Simplot. Staff recommends that the Commission grant interim approval of the Agreement in order to avoid a lapse between the firm energy sales agreements. Staff further recommends that the case be processed by Modified Procedure.

COMMISSION DECISION

1. Does the Commission wish to grant interim approval of the Agreement (and therefore payments) between Idaho Power and Simplot while the Application is being reviewed, subject to adjustments, until such time as the Agreement is approved by a final Order of the Commission?

2. Does the Commission wish to process this case under Modified Procedure?



Kristine A. Sasser
Deputy Attorney General

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